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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,447	02/09/2004	Roland Almeras	713-1058	3621
22429	7590	12/19/2005	EXAMINER	
LOWE HAUPTMAN GILMAN AND BERNER, LLP			WEEKS, GLORIA R	
1700 DIAGONAL ROAD			ART UNIT	
SUITE 300 /310			PAPER NUMBER	
ALEXANDRIA, VA 22314			3721	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/773,447	Applicant(s) ALMERAS ET AL.	
	Examiner Gloria R. Weeks	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5,7,9 and 11-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,7,9 and 11-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election with traverse of claims 5 and 11-21 in the reply filed on September 22, 2005 is acknowledged. Applicant's arguments with respect to the traversal of the grounds for restriction are found persuasive.

The restriction requirement is withdrawn.

***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 21 calls for a neck portion, which is not disclosed in the specification of Applicant's invention.

***Claim Objections***

3. Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 21 requires a neck portion connecting the lower and upper portions of the holding element. Examiner has interpreted the claimed neck portion to be equivalent to the tubular part of claim 17, upon which claim 21 is dependent.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5, 7, 9 and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Gupta (USPN 5,931,622).

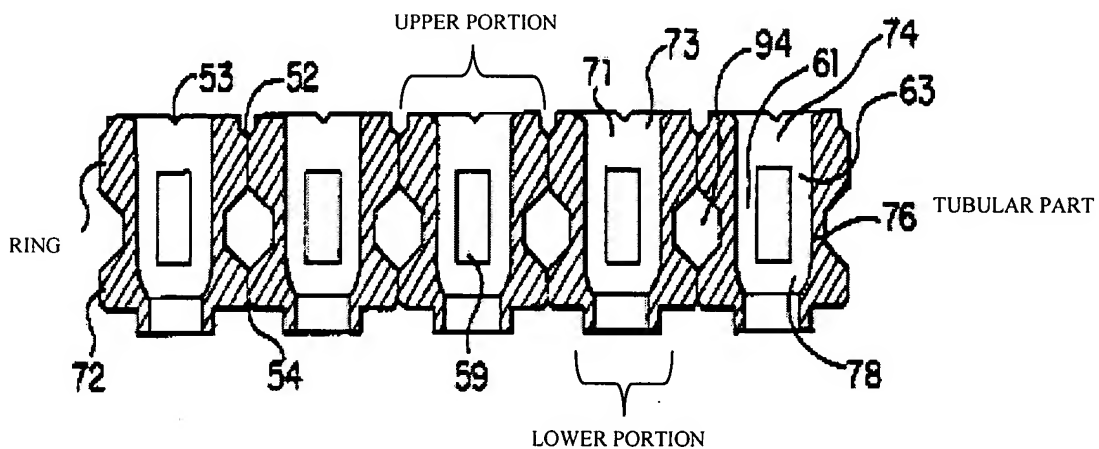
In reference to claim 5, Gupta discloses a strip (70) of fasteners (figure 3), each fastener (60) comprising a shank (64) pointed at one end (66) and bearing a head (62) at the other end, the fasteners (60) being engaged respectively via their shanks (64) in guide pegs (72) joined together into a string (70; figure 1), wherein at least one of the guide pegs (72) at the end of the string (70) comprises support means (74) for preventing tilting; the support means comprises at least one lug (87) extending transversely to the overall plane of the strip (70); each guide peg (72) comprising two transverse lugs (87) symmetric with respect to the overall plane of the strip.

Regarding claims 7 and 9, Gupta further discloses the strip of fasteners (70) structured for use in an fastening apparatus with a weight intended to be propelled along a bore (220) to drive a fastener (60) of a strip of fasteners (70), characterized in that the bore (220) in which the weight is intended to be propelled and which is intended to receive the fasteners (60) with its guide peg (70) is provided with a groove to accommodate the support means of the fasteners (60; column 3 lines 4-11).

With respect to claims 11-19, Gupta discloses a strip (70) of fasteners (60; figure 3) comprising: a shank (64) pointed at one end (66) and bearing a head (62) at the other end; a plurality of identical, hollow holding elements (72) connected in series (figure 1) along a longitudinal direction of the strip (70), wherein each of the holding elements (72) receives and surrounds the shanks (64) of each of the fasteners (60); and each holding element (72) comprises

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upper and lower portions adjacent the head (62) and the pointed end (66) of the fastener (60); the upper portion of at least one of the holding elements (72) extending radially outwardly in a direction transverse to the longitudinal direction (figure 3) in the form of a ring<sup>1</sup>, beyond a maximum radial extent of the lower portion (*see illustration below*) in the transverse direction; and at least two projections (52, 54) diametrically opposed in the transverse direction.

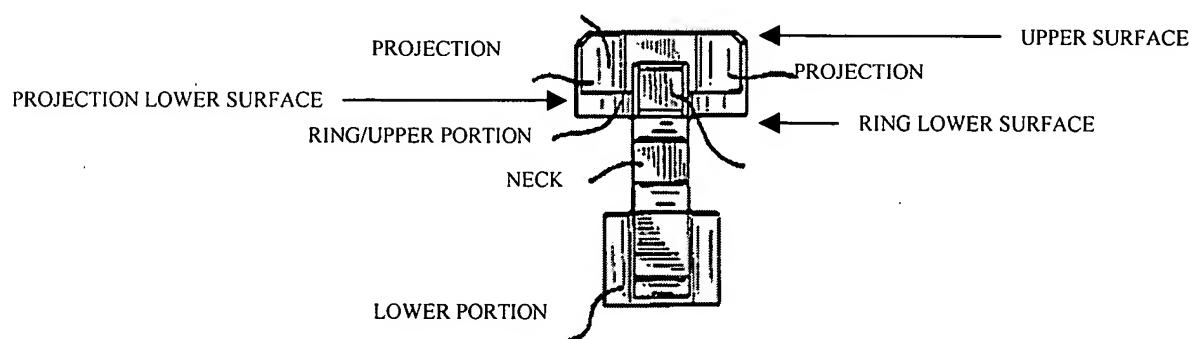


Regarding claims 11, 20 and 21, Gupta discloses a strip (70) of fasteners (60; figure 3) comprising: a shank (64) pointed at one end (66) and bearing a head (62) at the other end; a plurality of identical, hollow holding elements (72) connected in series (figure 1) along a longitudinal direction of the strip (70), wherein each of the holding elements (72) receives and surrounds the shanks (64) of each of the fasteners (60); and each holding element (72) comprises upper and lower portions adjacent the head (62) and the pointed end (66) of the fastener (60); the upper portion of at least one of the holding elements (72) extending radially outwardly in a direction transverse to the longitudinal direction (figure 3), beyond a maximum radial extent of the lower portion in the transverse direction; each of the holding elements (72) comprising a

<sup>1</sup> ring: A circular object, form, line, or arrangement with a vacant circular center

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tubular part and a ring on top of the tubular part, the ring defining the upper portion of the holding element two projections (54; figure 5) extending diametrically opposed from the upper portion, in the transverse direction; wherein an upper surface of the two projections is flush with an upper surface of the ring, whereas a lower surface of the projections is at a level above a lower surface of the ring (*see illustration below; based on figure 13*).



### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11 and 17-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ernst et al. (USPN 5,069,340).

In reference to claims 11 and 17-21, Ernst et al. discloses a strip (10) of fasteners (12; figure 1) comprising: a shank (18) pointed at one end (20) and bearing a head (22) at the other end; a plurality of identical, hollow holding elements (32) connected in series (figure 1) along a

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longitudinal direction of the strip (10), wherein each of the holding elements (32) receives and surrounds the shanks (18) of each of the fasteners (12); and each holding element (32) comprises upper and lower portions adjacent the head (22) and the pointed end (20) of the fastener (12; figure 4); the upper portion of at least one of the holding elements (32) extending radially outwardly in a direction transverse to the longitudinal direction (figure 5), beyond a maximum radial extent of the lower portion in the transverse direction; each of the holding elements (32) comprising a tubular part and a ring on top of the tubular part, the ring defining the upper portion of the holding element (*see illustration below*); two projections (74; figure 6) extending diametrically opposed from the upper portion, in the transverse direction.

Regarding claims 22-29, Ernst et al. discloses a combination of a strip of fasteners and a loading device, the loading device comprising an elongated internal passage in which the strip (10) is receivable, a wall (160, 162) of the passage including at least one groove with which the upper portion of the fasteners (12) are engageable when the fasteners are received in the passage (figure 17)

### ***Response to Arguments***

7. Applicant's arguments filed May 24, 2005 have been fully considered but they are not persuasive.

Applicant has argued that Gupta fails to meet the limitations of claim 5 of all the guide pegs of the strip include lugs. Examiner has identified element (87) as the lug of Gupta, which, as illustrated in figure 3, extends from "all" the guide pegs of the strip of fasteners.

Applicant's arguments with respect to claims 11-29 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

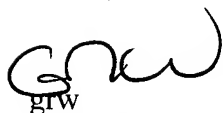
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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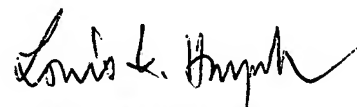
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grw

December 12, 2005

Gloria R Weeks  
Examiner  
Art Unit 3721



LOUIS K. HUYNH  
PRIMARY EXAMINER